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LAW DEPARTMENT

NOTIFICATION

The 16th February 2006

No. 1867—I-Legis.-8/2005-L.—The following Central Ordinance Promulgated by the President and published by the Government of India, Ministry of Law and Justice (Legislative Department) in the Gazette of India, Extraordinary, Part II, Section I, dated the 31st October, 2005 is hereby republished for general information.

By order of the Governor

D. K. SAHU

Principal Secretary to Government

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 31st October 2005 / Kartika 9, 1927 (Saka)

THE TAXATION LAWS (AMENDMENT) ORDINANCE, 2005 (No. 4 OF 2005)

Promulgated by the President in the Fifty-sixth Year of the Republic of India.

An Ordinance further to amend the Income Tax Act, 1961 and the Finance Act, 2005.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

Short title
and
commence-
ment.

1. (1) This Ordinance may be called the Taxation Laws (Amendment) Ordinance, 2005.

(2) It shall come into force at once.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

Amend-
ment of
Section 10.

2. In Section 10 of the Income Tax Act, 1961 (hereafter in this Chapter referred to as the Income Tax Act), with effect from the 1st day of April, 2006,—

(a) in clause (6BB), for the words, figures and letters “or entered into after the 30th day of September, 2005 and approved by the Central Government in this behalf”, the words, figures and letters “or entered into after the 31st day of March, 2006 and approved by the Central Government in this behalf” shall be substituted ;

(b) in clause (15A), in the proviso, for the words, figures and letters “the 1st day of October, 2005”, the words, figures and letters “the 1st day of April, 2006” shall be substituted;

(c) after clause (38), the following clauses shall be inserted, namely :—

‘(39) any specified income arising, from any international sporting event held in India, to the person or persons notified by the Central Government in the Official Gazette, if such international sporting event—

(a) is approved by the international body regulating the international sport relating to such event ;

(b) has participation by more than two countries ;

(c) is notified by the Central Government in the Official Gazette for the purpose of this clause.

Explanation—For the purpose of this clause, “the specified income” means the income, of the nature and to the extent, arising from the international sporting event, which the Central Government may notify in this behalf ;

(40) any income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation, transmission or distribution of power if such receipt is for settlement of dues in connection with reconstruction or revival of an existing business of power generation :

Provided that the provisions of this clause shall apply if reconstruction or revival of any existing business of power generation

is by way of transfer of such business to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of Section 80-IA. ;

- (41) any income arising from transfer of a capital asset, being an asset of an undertaking engaged in the business of generation, transmission or distribution of power where such transfer is effected on or before the 31st day of March, 2006 to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of Section 80-I A'.

Amendment
of Section
80-IA.

3. In Section 80-IA of the Income Tax Act, in sub-section (4), after clause (iv), the following clause shall be inserted with effect from the 1st day of April, 2006, namely :—

“(v) an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant, if—

- (a) such Indian company is formed before the 30th day of November, 2005 with majority equity participation by public sector companies for the purposes of enforcing the security interest of the lenders to the company owning the power generating plant and such Indian company is notified before the 31st day of December, 2005 by the Central Government for the purposes of this clause ;
- (b) such undertaking begins to generate or transmit or distribute power before the 31st day of March 2007.”.

Amendment
of Section
115-W.

4. In Section 115-W of the Income Tax Act, in clause (a), with effect from the 1st day of April, 2006,—

(a) for sub-clause (iii), the following sub-clause shall be substituted, namely :—

“(iii) an association of persons or a body of individuals, whether incorporated or not;”;

(b) after sub-clause (v), the following proviso shall be inserted, namely :

“Provided that any person eligible for exemption under clause (23C) of Section 10 or registered under Section 12AA or a political party registered under Section 29A of the Representation of the People Act, 1951 shall not be deemed to be an employer for the purposes of this Chapter;”.

CHAPTER III

AMENDMENTS TO THE FINANCE ACT, 2005

Amendment
of Section
94.

5. In Chapter VII of the Finance Act, 2005 (hereafter in this Chapter referred to as the Finance Act), in Section 94, with effect from the 1st day of June, 2005,—

(a) after clause (3), the following clause shall be inserted and shall be deemed to have been inserted, namely :—

‘(3A) “banking company” means a company to which the Banking Regulation Act, 1949 applies and includes any bank referred to in Section 51 of that Act ;’;

(b) after clause (4), the following clause shall be inserted and shall be deemed to have been inserted, namely :—

‘(4A) “co-operative bank” shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949;’.

Insertion of
new
Section
112A.

6. In Chapter VII of the Finance Act, after Section 112, the following Section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2005, namely :—

This
Chapter not
to apply in
certain
cases.

“112A. The provisions of this Chapter shall not apply to, or in relation to, the taxable banking transactions entered into on or after the 1st day of June, 2005,—

(a) between a scheduled bank and a banking company or a co-operative bank ; or

(b) between a scheduled bank and another scheduled bank.”.

A. P. J. ABDUL KALAM
President

T. K. VISWANATHAN
Secretary to the Government of India